

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VIVIAN SALAZAR,  
Plaintiff,

v.

VICTORIA'S SECRET & CO.,  
Defendant.

Case No. 23-cv-06654-MMC

**ORDER DENYING AS MOOT  
DEFENDANT'S MOTION TO DISMISS;  
VACATING HEARING**

Before the Court is defendant Victoria's Secret & Co.'s Motion to Dismiss, filed May 8, 2024, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure. On May 22, 2024, plaintiff Vivian Salazar filed a First Amended Class Action Complaint ("FAC").


A party may amend a pleading "once as a matter of course within . . . 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." See Fed. R. Civ. P. 15(a)(1). "[A]n amended pleading supersedes the original, the latter being treated thereafter as non-existent." Bullen v. De Bretteville, 239 F.2d 824, 833 (9th Cir. 1956), cert. denied, 353 U.S. 947 (1957); see also Falck Northern California Corp. v. Scott Griffith Collaborative Solutions, LLC, 25 F.4th 763, 765 (9th Cir. 2022) (holding filing of amended complaint "renders [initial complaint] without legal effect") (internal citation and quotation omitted)).

In the instant case, plaintiff filed her FAC within 21 days after service of the motion to dismiss, and, consequently, was entitled to amend as of right. See Fed. R. Civ. P. 15(a)(1).

Accordingly, defendant's motion to dismiss the initial complaint is hereby DENIED as moot, and the hearing scheduled for June 21, 2024, is hereby VACATED.

**IT IS SO ORDERED.**

Dated: May 29, 2024

  
MAXINE M. CHESNEY  
United States District Judge

United States District Court  
Northern District of California